

House Amendment 8227

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1 1 Amend House File 2395 as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 NEW SECTION. 714.26 INTELLECTUAL
1 5 PROPERTY COUNTERFEITING.
1 6 1. DEFINITIONS. As used in this section unless
1 7 the context otherwise requires:
1 8 a. "Counterfeit mark" means any unauthorized
1 9 reproduction or copy of intellectual property, or
1 10 intellectual property affixed to any item knowingly
1 11 sold, offered for sale, manufactured, or distributed,
1 12 or identifying services offered or rendered, without
1 13 authority of the owner of the intellectual property.
1 14 b. "Intellectual property" means any trademark,
1 15 service mark, trade name, label, term, device, design,
1 16 or word adopted or used by a person to identify the
1 17 items or services of the person.
1 18 c. "Retail value" means the highest value of an
1 19 item determined by any reasonable standard at the time
1 20 the item bearing or identified by a counterfeit mark
1 21 is seized. If a seized item bearing or identified by
1 22 a counterfeit mark is a component of a finished
1 23 product, "retail value" also means the highest value,
1 24 determined by any reasonable standard, of the finished
1 25 product on which the component would have been
1 26 utilized. The retail value shall be the retail value
1 27 of the aggregate quantity of all items seized which
1 28 bear or are identified by a counterfeit mark. For
1 29 purposes of this paragraph, reasonable standard
1 30 includes but is not limited to the market value within
1 31 the community, actual value, replacement value, or the
1 32 counterfeiter's regular selling price for the item
1 33 bearing or identified by a counterfeit mark, or the
1 34 intellectual property owner's regular selling price
1 35 for an item similar to the item bearing or identified
1 36 by a counterfeit mark.
1 37 2. CRIMINAL OFFENSE. A person who knowingly
1 38 manufactures, produces, displays, advertises,
1 39 distributes, offers for sale, sells, possesses with
1 40 intent to sell or distributes any item or knowingly
1 41 provides service bearing or identified by a
1 42 counterfeit mark commits intellectual property
1 43 counterfeiting.
1 44 a. A person commits intellectual property
1 45 counterfeiting in the first degree if any of the
1 46 following apply:
1 47 (1) The person is manufacturing or producing an
1 48 item bearing or identified by a counterfeit mark.
1 49 (2) The offense involves more than one thousand
1 50 items bearing or identified by a counterfeit mark and
2 1 the total retail value of such items is equal to or
2 2 greater than ten thousand dollars.
2 3 (3) The offense is a third or subsequent violation
2 4 of this section.
2 5 Intellectual property counterfeiting in the first
2 6 degree is a class "C" felony.
2 7 b. A person commits intellectual property
2 8 counterfeiting in the second degree if any of the
2 9 following apply:
2 10 (1) The offense involves more than one hundred
2 11 items but does not involve more than one thousand
2 12 items bearing or identified by a counterfeit mark and
2 13 the total retail value of such items is equal to or
2 14 greater than one thousand dollars but less than ten
2 15 thousand dollars.
2 16 (2) The offense is a second violation of this
2 17 section.
2 18 Intellectual property counterfeiting in the second
2 19 degree is a class "D" felony.
2 20 c. All intellectual property counterfeiting which
2 21 is not intellectual property counterfeiting in the
2 22 first degree or second degree is intellectual property
2 23 counterfeiting in the third degree. Intellectual
2 24 property counterfeiting in the third degree is an

2 25 aggravated misdemeanor.

2 26 3. EVIDENCE. Any state or federal certificate of
2 27 registration of any intellectual property shall be
2 28 prima facie evidence of ownership of the intellectual
2 29 property in dispute.

2 30 4. SEIZURE AND DISPOSITION. Any items bearing or
2 31 identified by a counterfeit mark, and all personal
2 32 property, including but not limited to any items,
2 33 objects, tools, machines, equipment,
2 34 instrumentalities, or vehicles used in connection with
2 35 a violation of this section, shall be seized by any
2 36 law enforcement agency.

2 37 (1) All seized personal property shall be disposed
2 38 of in accordance with section 809.5 or as provided in
2 39 subparagraph (2).

2 40 (2) Upon request of the intellectual property
2 41 owner, all seized items bearing or identified by a
2 42 counterfeit mark shall be released by the seizing
2 43 agency to the intellectual property owner for
2 44 destruction or disposition. If the intellectual
2 45 property owner does not request release of the seized
2 46 items, the items shall be destroyed unless the
2 47 intellectual property owner consents to another
2 48 disposition.>

2 49 #2. Title page, by striking lines 1 and 2, and
2 50 inserting the following: 3 1 criminal offense of intellectual property
3 2 counterfeiting, and providing a penalty.>

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SCHICKEL of Cerro Gordo

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HEATON of Henry

3 11 HF 2395.501 80
3 12 jm/pj